

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ERNEST N. BENJAMIN,

Petitioner,

Civil Action

v.

No. 04-10748-JLT

LUIS SPENCER,

Respondent.

ORDER ON APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF FEES AND AFFIDAVIT

Having considered the petitioner's Application to Proceed Without Prepayment of Fees and Affidavit under 28 U.S.C. § 1915:

It is ORDERED that:

- ☐ The Application to Proceed Without Prepayment of Fees and Affidavit is GRANTED.
- ☒ The Application to Proceed Without Prepayment of Fees and Affidavit is DENIED WITHOUT PREJUDICE for the following reason(s):

Petitioner has failed to submit a prison account statement as required. See Rule 3(a) of the Rules Governing Section 2254 Cases (if a petitioner desires to prosecute petition in forma pauperis, he shall file the affidavit required by § 1915 and a certified statement of amount of funds in prisoner's institutional account); 28 U.S.C. § 1915(a)(2).

- ☒ It is FURTHER ORDERED that petitioner must pay the \$5.00 filing fee or submit a new Application to Proceed Without Prepayment of Fees with a prison account statement within 42 days of the date of this Order or this case will be dismissed without prejudice.

6/7/04
DATE

s/ Joseph L. Tauro
UNITED STATES DISTRICT JUDGE